| **Clause** | | **Remarks / Guidelines** |
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| **SCT 23 Number of term service contracts to be awarded to one single contractor** | | |
| (1) | The tenderer’s attention is drawn to the *Client*’s policy on restricting the maximum number of term service contracts that can be undertaken at any one time by a single contractor. | Project Office should consult LAD(W) who may consult ILD on a case-by-case basis on whether such a restriction may be imposed. Please refer to WBTC No. 24/99 and other relevant memo(s) from FSTB and DEVB for the required procedures before adopting this clause. Project Office may amend this clause to suit the departmental operation. |
| (2) | Under the restriction, no contractor will be allowed to undertake more than [insert appropriate number] contract(s) at any one time from the following list of term service contracts:   1. List the term service contracts 2. …   [#Following this principle, the contractor under contract [insert appropriate item no.] above will automatically be barred from being awarded this contract.] | #Modify as appropriate. |
| (3) | For the purpose of operating the restriction, if a joint venture contractor is awarded any one of the contracts referred to in sub-clause (2) above, all participants/shareholders of the joint venture will be treated as if each of them is awarded the same contract. Therefore, they will automatically be barred from being awarded the other contract referred to in sub-clause (2) above either on their own or as a participant/shareholder of a joint venture. Similarly, a joint venture will automatically be barred from being awarded the contracts referred to in sub-clause (2) above if one or more of its participants/shareholders is/are awarded any one of the contracts referred to in sub-clause (2) above either on their own or as a participant/shareholder of a joint venture. |  |
| (4) | A holding company and its subsidiaries are considered as one and the same contractor. Therefore, all companies in the same group as the contractor who is awarded any one of the contracts referred to in sub-clause (2) above will automatically be barred from being awarded the other contract referred to in sub-clause (2) above either on their own or as a participant/shareholder of a joint venture. The existence of a holding – subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622). |  |
| (5) | For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture shall be regarded as having submitted more than one tender. |  |
| (6) | Tender assessment and award of this contract will take due consideration of the aforesaid policy and restriction. |  |
| (7) | For the purpose of this Clause, the expression “joint venture” includes “unincorporated joint venture” and “incorporated joint venture”, the meanings of which are given in paragraph 6 of the Environment, Transport and Works Bureau Technical Circular (Works) No. 50/2002 on Contractors’ Joint Ventures. |  |
| (8) | The *Client* reserves the right to vary or withdraw the aforesaid policy and restriction in appropriate circumstances. |  |
| (9) | Notwithstanding the foregoing provisions, the tenderer shall note that the *Client* does not bind itself to accept any tender whether the tender is the lowest bid or, where the assessment of the tenders is based on a formula approach, the tender has the highest overall mark. |  |